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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,033	08/27/2003	Richard P. Ouellette	7784-000619	5123
27572	7590	04/05/2004	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			HOLZEN, STEPHEN A	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3644	

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/649,033		OUELLETTE ET AL.	
	Examiner		Art Unit	
	Stephen A. Holzen		3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 19-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 3644

DETAILED ACTION

1. Claims 19-46 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement.
2. This application contains claims 19-46 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7, 8, 2, 12, 13, 15 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Uesugi (JP 357114710A). Uesugi discloses an aircraft comprising a fuselage (1), a pair of sidewall and a bottom (see Figures 1-4), a pair of wings, (see Figures 1-4), each sidewall including at least one pulse ejector thrust augmentor bank canted such that a thrust exhaust produced by each bank is directed down and away from the centerline of the payload bay (see Figures 1-4). Uesugi does not disclose a bottom adapted to allow ingress and egress of cargo from the payload bay. (However Stanek --6,206,326-- and Burdall II et al. --6,098,925-- both disclose that it is well known in the art to adapt the bottom of an aircraft to allow ingress and egress of cargo from the payload bay.

Re - Claim 2: wherein the wings have a non-alterable wingspan adapted to allow the aircraft to be transported with the larger aircraft and deployed from the larger aircraft when the larger aircraft is airborne. (Inherent where the size of the larger aircraft has not been disclosed nor is the mode of "adaptation").

Art Unit: 3644

Re - Claim 7: wherein the plurality of layers includes an outer side panel of each PETA bank (see Figure 1-4)

Re - Claim 8: wherein the plurality of layers includes a plurality of pulsejet engines included in each PETA bank. (see figure 1-4)

Re - Claim 12: wherein the fuselage includes long aligned edges adapted to reduce radar cross-section returns (see Figures 1-4)

Re - claim 13: wherein an exterior surface of each sidewall is canted to reduce radar cross-section side sectors returns (see Figures 1-4)

Re - Claim 15: wherein the cruise propulsion system includes a high efficiency high bypass turbofan to cool exhaust from the cruise propulsion system and thereby reduce infrared detection. (It is well known in the art obvious to use any type of engine, see page 13 lines 22-28 of the present application)

Re - Claim 16: wherein the fuselage includes a lower aft deck (see Figures 1-4)

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uesugi in view of Haynes (6,619,584). Uesugi discloses every aspect of the present invention except wherein the wings are foldable. Shapery however discloses that it is known to use foldable wings to decrease the space used by an aircraft. It would have been obvious at the time of the invention to one having ordinary skill in the art to include the teachings of Shapery.

6. Claims 4-6 and 9-11 rejected under 35 U.S.C. 103(a) as being unpatentable over Uesugi in view or ordinary skill in the art. Re - Claim 4-7,9-11: Uesugi discloses the claimed invention except for the plurality of layers. Uesugi discloses at least one layer between the outside of the bay and the pulse ejector. However it would have been obvious to one having ordinary skill in the art at the time the invention was made to use employee multiple layers since it has been held that mere duplication of the essential working parts of a device involves only routine sill in the art. St. Regis Paper Co. V. Bemis Co., 193 USPQ 8.

Art Unit: 3644

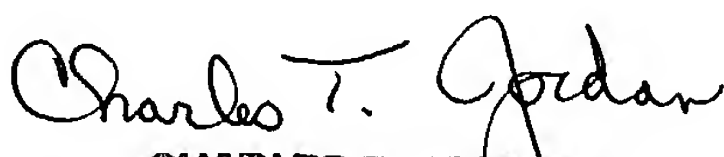
7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uesugi in view of Shapey (5,507,453.) Uesugi discloses every aspect of the present invention except at least one absorber. However Shapey disclose that is known to use vanes to alter the direction of thrust. These vanes inherently absorb and narrow acoustical bandwidth. It would have been obvious to include the vanes of Shapey in the invention of Uesugi to develop lateral thrust from the PETA.

8. Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over ordinary skill in the art. Uesugi discloses every aspect of the applicant's invention except wherein the fuselage and wings include a camouflage scheme to reduce visual detection. However camouflage is a known and widely used coloring scheme to reduce visual detection. It would have been obvious at the time of the invention to one having ordinary skill in the art to use camouflage to decrease an aircrafts visual detection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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